IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 58 OF 1999.

1. Land Acquisition Officer,
South Goa Sub Division,
Quepem, Goa.

2. The Executive Engineer,
WD, XXV (NH) P.W.D.,
Gogol, Margao ..... Appellants.

Versus

Antonio Piedade Rebello,
r/o Bandfol, Chinchinim,
Salcete, Goa. .... Respondent.

Ms. W. Coutinho, Government Advocate for the Appellants.

Shri S.S. Kakodkar, Advocate for the Respondent.

CORAM: R. M. LODHA, J.

DATE: 7th OCTOBER, 2005.

ORAL JUDGMENT:

In this First Appeal, the Land Acquisition Officer, South Goa, Sub-Division III and the Executive Engineer W.D. XXIV, P.W.D., Gogol, Margao seek to challenge the legality and correctness of the Judgment and Award dated 24th November, 1998 passed by IInd Addl. District Judge, South Goa, Margao in Land Acquisition Case No.171/1992 which pertained to acquisition of 250 sq.m. of land from property under Survey No.430/12

situated at village Chinchinim, Taluka Salcete belonging to the respondent.

2. The State Government issued Notification under S.4(1) of the Land Acquisition Act dated 11.5.1988 that was published in the Official Gazette on 4.8.1988 for acquisition of the aforesaid land along with other land for widening and improvement of National Highway No.17. Upon conclusion of acquisition, the Land Acquisition Officer fixed the market value of the acquired land at Rs.13 per sq.m. and offered compensation accordingly. The respondent-claimant (owner) was dissatisfied with the offer of compensation made by the Land Acquisition Officer and, accordingly, sought reference under S.18 of the Land Acquisition Act. The matter was referred to the Civil Court by the Land Acquisition Officer.

3. Before the Reference Court the claimant - Antonio Piedade Rebello (AW1) examined himself. He also examined two other witnesses namely Gabriel Rodrigues (AW2) and Rosa Coutinho (AW3). The claimant produced the sale deed dated 13.8.1985 (Exh.AW1/17) that pertained to similarly situated land of proximate area abutting the National Highway No.17. The Valuation Report prepared by the expert witness Capt. Rodrigues was exhibited as AW1/18.

4. On behalf of the present appellants no evidence was led in rebuttal.

5. The Reference Court treated the Sale Deed dated 13.8.1985 as the basis. After scaling down the sale consideration provided in the sale deed dated 13.8.1985 to 50%, considered 10% increase in the land per year and, accordingly, fixed the market value at Rs.100/- per sq.m. Aggrieved thereby the present appeal has been preferred.

6. The learned Government Advocate as well as the learned Advocate for the respondent/claimant did not dispute that the subject matter of this First Appeal is identical to the subject matter of First Appeal No.32/1999 that was disposed of by me on October 6, 2005. They also agreed that in view thereof, this First Appeal does not require detailed discussion. The evidence that has been produced by the present claimant is identical to the evidence that was produced by the claimant in F.A. No.32/1999. In both these cases the Sale Deed dated 13.8.1985 was taken by the Reference Court as the basis for determining the market value of the acquired land. The land in both the cases has been acquired under the same Notification, for the same public purpose and the market value was determined by the Reference Court on identical evidence. Thus, without repeating the reasons that were indicated by me in my Judgment in the First Appeal No.32/1999 (State of Goa v. Joaquim Crasto), the reasons therefor may be considered as part of this judgment, I am satisfied that the value of the acquired land fixed by the Reference Court at the rate of Rs.100/- per sq.m. deserves to be

upheld and I hold so.

7. Consequently, First Appeal is dismissed with no order as to costs.

R. M. LODHA, J.

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